

State of Wisconsin



1997 Assembly Bill 248

Date of enactment: **July 14, 1997**
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1997 WISCONSIN ACT 11

AN ACT *to renumber and amend* 655.23 (4); *to amend* 619.01 (7) (a); and *to create* 655.23 (4) (b), 655.23 (4) (c) and 655.23 (4) (d) of the statutes; **relating to:** increasing the limits, and authorizing occurrence or claims-made coverage, for health care liability insurance and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 619.01 (7) (a) of the statutes is amended to read:

619.01 (7) (a) *Primary coverage plans.* Health care liability insurance plans established under this paragraph shall provide minimum coverage to insureds in the amount of not less than \$200,000 for each occurrence and \$600,000 for all occurrences in any one policy year for occurrences before July 1, 1987, \$300,000 for each occurrence and \$900,000 for all occurrences in any one policy year for occurrences on or after July 1, 1987, and before July 1, 1988, and \$400,000 for each occurrence and \$1,000,000 for all occurrences in any one policy year for occurrences on or after July 1, 1988, and before July 1, 1997, and \$1,000,000 for each occurrence and \$3,000,000 for all occurrences in any one policy year for occurrences on or after July 1, 1997, for the protection of persons who are legally entitled to recover damages from the insured for errors, omissions or neglect in the performance of the insured's professional services. If an insured has excess limits liability coverage or such coverage is available to the insured, the coverage provided under such plans shall be equal to the minimum level of such excess limits coverage. If the insured does not have excess limits liability coverage and such coverage is not

available to the insured, the commissioner may establish minimum levels of coverage higher than the minimum limits specified in this paragraph for such plans.

SECTION 2. 655.23 (4) of the statutes is renumbered 655.23 (4) (a) and amended to read:

655.23 (4) (a) ~~Health care liability insurance, self-insurance or a~~ cash or surety bond under sub. (3) (d) shall be in amounts of at least \$200,000 for each occurrence and \$600,000 ~~per year~~ for all occurrences in any one policy year for occurrences before July 1, 1987, \$300,000 for each occurrence and \$900,000 for all occurrences in any one policy year for occurrences on or after July 1, 1987, and before July 1, 1988, and \$400,000 for each occurrence and \$1,000,000 for all occurrences in any one policy year for occurrences on or after July 1, 1988.

SECTION 3. 655.23 (4) (b) of the statutes is created to read:

655.23 (4) (b) 1. Except as provided in par. (c), before July 1, 1997, health care liability insurance may have provided either occurrence or claims-made coverage. The limits of liability shall have been as follows:

a. For occurrence coverage, at least \$200,000 for each occurrence and \$600,000 for all occurrences in any one policy year for occurrences before July 1, 1987, \$300,000 for each occurrence and \$900,000 for all occur-

* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

rences in any one policy year for occurrences on or after July 1, 1987, and before July 1, 1988, and \$400,000 for each occurrence and \$1,000,000 for all occurrences in any one policy year for occurrences on or after July 1, 1988, and before July 1, 1997.

b. For claims-made coverage, at least \$200,000 for each claim arising from an occurrence before July 1, 1987, regardless of when the claim is made, and \$600,000 for all claims in any one reporting year for claims made before July 1, 1987, \$300,000 for each claim arising from an occurrence on or after July 1, 1987, and before July 1, 1988, regardless of when the claim is made, and \$900,000 for all claims in any one reporting year for claims made on or after July 1, 1987, and before July 1, 1988, and \$400,000 for each claim arising from an occurrence on or after July 1, 1988, and before July 1, 1997, regardless of when the claim is made, and \$1,000,000 for all claims in any one reporting year for claims made on or after July 1, 1988, and before July 1, 1997.

2. Except as provided in par. (c), on and after July 1, 1997, health care liability insurance may provide either occurrence or claims-made coverage. The limits of liability shall be as follows:

a. For occurrence coverage, at least \$1,000,000 for each occurrence and \$3,000,000 for all occurrences in any one policy year for occurrences on or after July 1, 1997.

b. For claims-made coverage, at least \$1,000,000 for each claim arising from an occurrence on or after July 1, 1997, and \$3,000,000 for all claims in any one reporting year for claims made on or after July 1, 1997.

SECTION 4. 655.23 (4) (c) of the statutes is created to read:

655.23 (4) (c) 1. Except as provided in subd. 2., self-insurance shall be in amounts of at least \$200,000 for each occurrence and \$600,000 for all occurrences in any one policy year for occurrences before July 1, 1987, \$300,000 for each occurrence and \$900,000 for all occurrences in any one policy year for occurrences on or after July 1, 1987, and before July 1, 1988, \$400,000 for each occurrence and \$1,000,000 for all occurrences in any one policy year for occurrences on or after July 1, 1988, and before July 1, 1997, and \$1,000,000 for each occurrence and \$3,000,000 for all occurrences in any one policy year for occurrences on or after July 1, 1997.

2. Notwithstanding subd. 1., in the discretion of a self-insured health care provider, self-insurance may be in an amount that is less than \$1,000,000 but not less than \$600,000 for each occurrence on or after July 1, 1997, and before July 1, 1999, and less than \$1,000,000 but not less than \$800,000 for each occurrence on or after July 1, 1999, and before July 1, 2001.

SECTION 5. 655.23 (4) (d) of the statutes is created to read:

655.23 (4) (d) The commissioner may promulgate such rules as the commissioner considers necessary for the application of the liability limits under par. (b) to reporting years following termination of claims-made coverage, including rules that provide for the use of actuarial equivalents.

SECTION 6. Effective date.

(1) This act takes effect on July 1, 1997.